

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK
ALBANY DIVISION**

Federal Trade Commission,)	
)	01-CV-1537 TJM
)	
Plaintiff,)	
)	
v.)	
)	
R & R Consultants, Inc.,)	STIPULATED
a corporation d/b/a Coast to Coast)	ORDER OF PRELIMINARY
Benefits, R & R, Peace and)	INJUNCTION
Quiet, Consumer Alert, R & R Financial,)	
Consumer Information Services;)	
)	
Coast to Coast Benefits, Inc.,)	
a corporation;)	
)	
Reuben Ross,)	
individually, and as an officer of)	
R & R Consultants, Inc. and Coast to Coast)	
Benefits, Inc., also d/b/a R & R, Peace)		
and Quiet, Consumer Alert, R & R)	
Financial, Consumer Information Services;)	
)	
Defendants.)	
)	

Plaintiff, Federal Trade Commission (“Commission” or “FTC”), having filed its complaint for a permanent injunction and other relief in this matter, pursuant to Sections 13(b) and 19(a) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b(a), and the Telemarketing and Consumer Fraud and Abuse Prevention Act, 15 U.S.C. §§ 6101 *et seq.*, and the court having issued an *ex parte* Temporary Restraining Order (“TRO”), including Order to Show Cause Why a Preliminary Injunction Should Not Issue, and the parties having agreed to the entry of this Order containing a preliminary injunction,

IT IS THEREFORE STIPULATED, AGREED, AND ORDERED as follows:

FINDINGS OF FACT

1. This Court has jurisdiction over the subject matter of this case, and there is good cause to believe it will have jurisdiction over all the parties.

2. Plaintiff has alleged that Defendants R & R Consultants, Inc., d/b/a Coast to Coast Benefits, R & R, Peace and Quiet, Consumer Alert, R & R Financial, and Consumer Information Services; Coast to Coast Benefits, Inc.; and Reuben Ross, individually, and as an officer of R & R Consultants, Inc. and Coast to Coast Benefits, Inc., also d/b/a R & R, Peace and Quiet, Consumer Alert, R & R Financial, and Consumer Information Services (collectively “Defendants”) have engaged in and are likely to engage in acts and practices that violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the Telemarketing Sales Rule (“TSR”), 16 C.F.R. Part 310.

3. There is good cause to believe that immediate and irreparable damage will result from Defendants’ ongoing violations of Section 5(a) of the FTC Act and the TSR, 16 C.F.R. Part 310.

4. There is good cause to believe that immediate and irreparable damage to the Court’s ability to grant effective final relief for consumers in the form of monetary redress will occur from the sale, transfer, assignment, or other disposition by Defendants of their assets or records unless Defendants are restrained and enjoined by Order of this Court, in accordance with Fed. R. Civ. P. 65(b) and the interest of justice.

5. Weighing the equities and considering the Commission’s likelihood of success, this Order is in the public interest.

6. No security is required of any agency of the United States for issuance of a restraining order. Fed. R. Civ. P. 65(c).

7. Defendants, by agreeing and stipulating to this Order, make no admission as to the truth of Plaintiff's allegations and specifically deny them. In addition, the entry of this order shall not be construed or deemed a waiver of any claims or defenses which may be raised in this action, including lack of jurisdiction.

DEFINITIONS

A. "Assets" means any legal or equitable interest in, right to, or claim to, any real and personal property, including but not limited to chattel, goods, instruments, equipment, fixtures, general intangibles, effects, leaseholds, premises, contracts, mail or other deliveries, shares of stock, lists of consumer names, inventory, checks, notes, accounts, credits, receivables, funds, and all cash, wherever located.

B. "Defendants" means R & R Consultants, Inc., d/b/a Coast to Coast Benefits, R & R, Peace and Quiet, Consumer Alert, R & R Financial, and Consumer Information Services; Coast to Coast Benefits, Inc.; and Reuben Ross, individually, and as an officer of R & R Consultants, Inc. and Coast to Coast Benefits, Inc., also d/b/a R & R, Peace and Quiet, Consumer Alert, R & R Financial, and Consumer Information Services, and their officers, agents, servants, employees, subsidiaries, affiliates, successors, assigns, and all persons or entities in active concert or participation with them who receive notice of this order by personal service or otherwise.

C. "Document" is synonymous in meaning and equal in scope to the usage of the term in Federal Rule of Civil Procedure 34(a), and includes writings, drawings, graphs, charts, photographs,

audio and video recordings, computer records, and other data compilations from which information can be obtained and translated, if necessary, into reasonably usable form through detection devices. A draft or non-identical copy is a separate document within the meaning of the term.

D. “Plaintiff” means Federal Trade Commission.

E. “Telemarketing” shall mean any business activity (whether or not covered by the Telemarketing Sales Rule, 16 C.F.R. Part 310, including, but not limited to, initiating or receiving telephone calls, managing others who initiate or receive telephone calls, operating an enterprise that initiates or receives telephone calls, owning an enterprise that initiates or receives telephone calls, or otherwise participating as an officer, director, employee or independent contractor in an enterprise that initiates or receives telephone calls) that involves attempts to induce consumers to purchase any investment, item, good, service, partnership interest, trust interest or other beneficial interest, or to enter a contest for a prize, by means of telephone sales presentations, either exclusively or in conjunction with the use of other forms of marketing.

F. “Assisting and facilitating” is defined in Section 310.3(4)(b) of the TSR.

G. “Credit-related goods or services” shall mean any business activity that involves telemarketing and purports directly or indirectly to (1) provide consumers, arrange for consumers to receive, or assist consumers in receiving grants, loans, financing, credit or debit cards, or other extensions of credit; (2) improve, or arrange to improve, any consumer’s credit card record, credit history, or credit rating; (3) provide advice or assistance to any consumer with regard to any activity or service the purpose of which is to improve a consumer’s credit record, credit history, or credit rating; (4) provide consumers, arrange for consumers to receive, or assist consumers in receiving, debt

consolidation, debt relief, or other credit counseling; (5) provide consumers, arrange for consumers to receive, or assist consumers in receiving, credit monitoring.

H. “Protection services” shall mean any offer, promise, or representation involving the removal or safeguarding from unauthorized use of consumer identity information, such as social security numbers, financial account information, and credit card numbers. The term includes, but is not necessarily limited to, removal of information from the Internet, from lists maintained by telemarketers, and from any other databases maintained by Defendants or by third parties.

I. BAN REQUIREMENTS

IT IS ORDERED that Defendants are hereby restrained and enjoined from engaging, participating in, or assisting in any manner or in any capacity whatsoever, whether directly or indirectly, in concert with others, or through any intermediary, third party, business entity, or device, in the marketing, advertising, promotion, or selling of (1) any credit-related goods or services or (2) any protection services.

II. INJUNCTIVE PROVISIONS

IT IS FURTHER ORDERED that in connection with the marketing, advertising, promotion, offering or sale of other goods or services not covered by Section I, above, Defendants are hereby restrained and enjoined from making any express or implied representation or omission of material fact that is false or misleading, in any manner, orally or in writing, to any consumer or entity, including, but not limited to, the following:

A. Falsely representing the cost, duration, nature, attributes, or refund policy associated with their goods or services;

B. Falsely representing that consumers purchased or agreed to purchase goods or services from Defendants, and therefore owe money to Defendants;

C. Failing to disclose promptly and in a clear and conspicuous manner that the purpose of the telemarketing call is to sell goods or services;

D. Falsely representing the reasons for, or the use that will be made of, the Defendants' obtaining information associated with consumers' credit cards and debit cards and bank accounts, including but not limited to account numbers, expiration dates, Social Security numbers in whole or in part, and mothers' maiden names;

E. Falsely representing to consumers or entities any consumer's authorization for the Defendants to post charges to any consumer's credit card account or debit card account or checking account;

F. Falsely representing any information material to a consumer's decision to purchase Defendants' services; and

G. Falsely representing in any manner the purpose for which the Defendants will use any consumers' charge card or bank account information.

The provisions of this Section, including all subdivisions thereof, shall be construed to include any instances in which Defendants sell or market goods or services through contracts or agreements with third parties or intermediaries, or by assisting and facilitating third parties in the sale of their goods or services.

III. COMPLIANCE WITH THE TSR

IT IS FURTHER ORDERED that Defendants are hereby restrained and enjoined from violating, or assisting others in violating, any provision of the Telemarketing Sales Rule, 16 C.F.R. Part 310.

The provisions of this Section shall be construed to include any instances in which Defendants sell or market goods or services through contracts or agreements with third parties, or by assisting and facilitating third parties.

IV. ASSET FREEZE

IT IS FURTHER ORDERED that Defendants are hereby restrained and enjoined from:

A. Transferring, converting, encumbering, selling, concealing, dissipating, disbursing, assigning, spending, withdrawing, perfecting a security interest in, or otherwise disposing of any funds, real or personal property, accounts, contracts, shares of stock or other assets, wherever located, inside or outside the United States of America, that are: (a) owned or controlled by R & R Consultants, Inc., Coast to Coast Benefits, Inc., Reuben Ross, and their d/b/a/s, successors and assigns, in whole or in part, including but not limited to property, bank accounts or other assets where the title is taken in their names, as joint tenancy or common ownership with a non-party, co-owned with a spouse, or held in trust; (b) in the actual or constructive possession of R & R Consultants, Inc., Coast to Coast Benefits, Inc., Reuben Ross, and their d/b/a/s, successors and assigns; or (c) owned, controlled by, or in the actual or constructive possession of any corporation, partnership, or other entity directly or indirectly owned, managed, or controlled by, or under common control of R & R Consultants, Inc., Coast to Coast Benefits, Inc., Reuben Ross, and their d/b/a/s, successors and assigns, including but not limited to any assets held for or by any of them or subject to access by any of them at any bank or savings and

loan institution or with any broker, dealer, escrow agent, title company, commodity trading company, precious metal dealer, or other financial institution or depository of any kind;

B. Opening or causing to be opened any safe deposit boxes titled in the names of Reuben Ross, R & R Consultants, Inc., Coast to Coast Benefits, Inc., and their d/b/a/s, successors and assigns, or subject to access by any of them;

C. Incurring charges or cash advances on any credit card issued in the names of R & R Consultants, Inc., Coast to Coast Benefits, Inc., and their d/b/a/s, successors and assigns, singly or jointly;

D. Obtaining a personal or secured loan in the names of R & R Consultants, Inc., Coast to Coast Benefits, Inc., and their d/b/a/s, successors and assigns, singly or jointly; and

E. Incurring liens or other encumbrances on real property, personal property or other assets in the names of R & R Consultants, Inc., Coast to Coast Benefits, Inc., and their d/b/a/s, successors and assigns, singly or jointly;

F. Defendant Reuben Ross may not incur a total debt of greater than \$5,000 pursuant to Subds. C, D, and E of this Section without prior approval of the FTC, or further leave of the Court.

PROVIDED HOWEVER that notwithstanding any of the provisions in this Section, R & R Consultants, Inc., Coast to Coast Benefits, Inc., and Reuben Ross may withdraw the following sums of money in U.S. currency from frozen assets: (1) a payment of \$15,000 for legal costs, without prejudice to apply to this Court for additional fees. However, it is agreed and stipulated between the parties that the \$15,000 payment will cover all of defendants' legal costs through at least the preliminary injunction phase of this case, as well as through any negotiations involving the entry of a stipulated final judgment;

(2) living expenses of \$3,000 per month, beginning on the date of this Order and continuing on a monthly basis thereafter for two additional months, not to exceed \$9,000 in total; and (3) a one-time payment to their computer technician, bookkeeper, and accountant totaling \$1,500. No further sums for living expenses, legal costs, or any other expenses of these defendants shall be withdrawn from frozen assets until further order of this Court,

PROVIDED FURTHER that any income earned by Reuben Ross after the date of the Temporary Restraining Order herein (October 10, 2001) that is not derived from conduct in violation of this Order shall not be subject to the asset freeze provisions of this section.

V. PRESERVATION OF RECORDS

IT IS FURTHER ORDERED that Defendants are hereby restrained and enjoined from destroying, erasing, mutilating, concealing, altering, transferring or otherwise disposing of, in any manner, directly or indirectly, any documents that relate to the business practices or business or personal finances of any Defendant.

VI. RECORD KEEPING/BUSINESS OPERATIONS

IT IS FURTHER ORDERED that Defendants are hereby restrained and enjoined from:

- A. Failing to create and maintain documents that, in reasonable detail, accurately, fairly, and completely reflect their incomes, disbursements, transactions, and use of money; and
- B. Creating, operating, or exercising any control over any business entity, including any partnership, limited partnership, joint venture, sole proprietorship or corporation, without first providing Plaintiff Commission with a written statement disclosing: (1) the name of the business entity; (2) the address and telephone number of the business entity; (3) the names of the business entity's officers,

directors, principals, managers and employees; and (4) a detailed description of the business entity's intended activities.

VII. DISTRIBUTION OF ORDER

IT IS FURTHER ORDERED that R & R Consultants, Inc., Coast to Coast Benefits, Inc., and Reuben Ross shall immediately provide a copy of this Order to each affiliate, subsidiary, division, sales entity, successor, assign, officer, director, employee, independent contractor, agent, attorney, spouse and representative of themselves, and shall, within ten (10) days from the date of entry of this Order, provide the Commission with a sworn statement that they have complied with this provision of the Order, which statement shall include the names and addresses of each such person or entity who received a copy of the Order. The sworn statement shall be mailed to: Associate Director, Division of Marketing Practices, 600 Pennsylvania Ave., NW, Room 238, Washington, D.C. 20580.

VIII. FINANCIAL INSTITUTION OBLIGATIONS REGARDING DEFENDANTS' ACCOUNTS AND ASSETS

IT IS FURTHER ORDERED that any financial or brokerage institution, business entity, escrow account holder, trustee or person after having been provided with notice of this Order shall:

A. Prohibit Defendants from withdrawing, removing, assigning, transferring, pledging, encumbering, disbursing, dissipating, converting, selling, or otherwise disposing of any account, funds, property or other asset:

1. Maintained in the name of, or subject to withdrawal or access by R & R Consultants, Inc., Coast to Coast Benefits, Inc., Reuben Ross, and their d/b/a/s, successors and assigns;

2. Held on behalf or for the benefit of R & R Consultants, Inc., Coast to Coast Benefits, Inc., Reuben Ross, and their d/b/a/s, successors and assigns; or

3. Subject to access or use by R & R Consultants, Inc., Coast to Coast Benefits, Inc., Reuben Ross, and their d/b/a/s, successors and assigns.

Provided, however, that this Order shall not:

- (i) prohibit transfers as directed by further order of the Court; or
- (ii) prohibit transfers for the specific purposes set forth in Section IV herein.

B. Deny Defendants access to any safe deposit box that is:

1. Titled in the name of R & R Consultants, Inc., Coast to Coast Benefits, Inc., Reuben Ross, and their d/b/a/s, successors and assigns, either individually or jointly; or

2. Otherwise subject to access by R & R Consultants, Inc., Coast to Coast Benefits, Inc., Reuben Ross, and their d/b/a/s, successors and assigns, either individually or jointly.

C. Provide counsel for the Commission, within five (5) business days of receiving a copy of this Order, a sworn statement setting forth:

1. The identification number of each such account or asset titled in the name, individually or jointly, of R & R Consultants, Inc., Coast to Coast Benefits, Inc., Reuben Ross, and their d/b/a/s, successors and assigns, or held on behalf of, or for the benefit of them;

2. The balance of each such account, or a description of the nature and value of such asset as of the time this Order is served, and, if the account or other asset has been closed or removed, the date closed or removed, the total funds removed in order to close the account, and the name of the person or entity to whom such account or other asset was remitted; and

3. The identification of any safe deposit box that is either titled in the name, individually or jointly, of R & R Consultants, Inc., Coast to Coast Benefits, Inc., Reuben Ross, and their d/b/a/s, successors and assigns, or otherwise subject to access by them.

IT IS FURTHER ORDERED that copies of this Order may be served by any means, including facsimile transmission, upon any financial institution or other entity or person that may have possession, custody, or control of any documents or assets of R & R Consultants, Inc., Coast to Coast Benefits, Inc., Reuben Ross, and their d/b/a/s, successors and assigns, or that may be subject to any provision of this Order. Service upon any branch or office of any financial institution shall effect service upon the entire financial institution.

IX. CONSUMER CREDIT REPORTS

IT IS FURTHER ORDERED that pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C. § 1681b(1), any consumer reporting agency may furnish a consumer report concerning any Defendant to Plaintiff.

X. PROHIBITIONS INVOLVING CONSUMER LISTS

IT IS FURTHER ORDERED that Defendants are hereby restrained and enjoined from selling, renting, leasing, transferring, or otherwise disclosing the name, address, telephone number, credit card number, bank account number, e-mail address, or other identifying information of any person who paid any money to them in connection with the advertising, promotion, telemarketing, offering for sale, or sale of any product or service involving (1) credit-related goods or services, or (2) protection services for any product, area of marketing, or area of commerce, *provided however*, that

the Defendants may disclose such identifying information to a law enforcement agency, or as required by any law, regulation or court order.

XI. MONITORING COMPLIANCE OF SALES PERSONNEL

IT IS FURTHER ORDERED that Defendants, in connection with any business where (1) R & R Consultants, Inc., Coast to Coast Benefits, Inc., or Reuben Ross, and their d/b/a/s, successors and assigns, are the majority owner of the business or directly or indirectly manage or control the business, and where (2) the business is engaged in telemarketing or assisting or facilitating others engaged in telemarketing, are hereby restrained and enjoined from:

A. Failing to take reasonable steps sufficient to monitor and ensure that all employees and independent contractors engaged in sales or other customer service functions comply with Sections I, II, III, and X of this Order. Such steps shall include adequate monitoring of sales presentations or other calls with customers, and shall also include, at a minimum, the following: (1) listening to the oral representations made by persons engaged in sales or other customer service functions; (2) establishing a procedure for receiving and responding to consumer complaints; and (3) ascertaining the number and nature of consumer complaints regarding transactions in which each employee or independent contractor is involved;

B. Failing promptly to investigate fully any consumer complaint received by any business to which this Section applies; and

C. Failing to take any corrective action with respect to any sales person whom Defendants determine is not complying with this Order, which may include training, disciplining, and/or terminating such sales person.

XII. COMPLIANCE REPORTING BY DEFENDANTS

IT IS FURTHER ORDERED that ninety (90) days after the date of entry of this Order, and continuing thereafter on a semi-annual basis, the Defendants shall provide a written report to the Commission, updating all information contained in the financial reports which they were required to file pursuant to Section III of the TRO. The reports shall be mailed to complaint counsel, c/o:

Division of Marketing Practices
Federal Trade Commission
600 Pennsylvania Ave., NW, Rm. 238
Washington, DC 20580

XIII. RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for all purposes.

STIPULATED AND AGREED AS FOLLOWS:

FOR THE PLAINTIFF:

DATED: _____

David R. Spiegel, Esq.
NYS Bar No. 1592724
NDNY No. 511074
Brian Huseman, Esq.
Federal Trade Commission
600 PA Ave., NW, Room 238
Washington, D.C. 20580
202-326-3281; 202-326-3320
Attorneys for Plaintiff

FOR THE DEFENDANTS:

DATED: _____

Andrew N. Cove, Esq.
Cove & Associates
225 S. 21st St.
Hollywood, FL 33020
954-921-1121
Attorney for Defendants

DATED: _____

Deborah L. Kelly, Esq.
Hodgson, Russ
3 City Sq., 4th Floor
Albany, NY 12207
518-433-2402
Local Counsel for Defendants

DATED: _____

Reuben Ross, individually and on behalf
of R & R Consultants, Inc. and Coast to Coast
Benefits, Inc.

IT IS SO ORDERED, this ____ day of _____, 2001.

Thomas J. McAvoy
United States District Judge
Northern District of New York